IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CONTEMPT PETITION NO. 89 OF 2004
IN
NOTICE OF MOTION NO. 1764 OF 2001
IN
SUIT NO. 2390 OF 2001

Kilburn Engineering Ltd. ..Petitioners

Vs.

IIT Capital Services Ltd.
and Anr. ..Respondents/
Contemnor

....

Mr.Rahul Chitnis i/b Udwadia Udeshi for Petitioners
Mr.S.Jain with Mr.Sahu i/b S.K.Shrivastav for Respondents

....

CORAM : A.S.AGUIAR,J.
DATE : JANUARY 14,2005

P.C.:

1. Heard learned advocates for the parties.

2. The petitioners who are defendants in Suit No.2390 of 2001 allege contempt of this Court's order (Coram:F.I.Rebello, J.) dated December 12, 2001 directing the plaintiffs to sell machinery after notice to the defendants. It is alleged by the petitioners- defendants that the plaintiffs-respondents failed to give notice as directed by the order dated 12th December, 2001.

3. Learned advocate for the respondents-plaintiffs

states that notice as contemplated by the said order, has in fact, been served upon the petitioners. The said notice is annexed as Exhibit-1 to the affidavit dated 15.10.2004 of the constituted attorney of respondents. It is alleged that the said notice was tendered to the Security Guard of the respondents on 19th May, 2003. Though the Security Guard accepted the letter he refused to sign the acknowledgement. Affidavit dated 19th November, 2004 to that effect has been filed by Mr.Shinde the Peon-cum-delivery boy of respondent no.1. In the circumstances, it is clear that no contempt has been committed of the Court's order. Hence, petition dismissed and disposed of.

[A.S.AGUIAR,J.]